

TITLE 9

UTILITIES AND SERVICES

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CHAPTER 9.15

Watershed District.

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9.15.010 Intent of Town Watershed District. There is established by the Town of Parachute a Watershed District ("District"). The District is that area in which the Town shall exercise its powers to maintain and protect Town's waterworks from injury and the Town's water supply from pollution. This District is created under the authority granted in C.R.S. §31-15707(1)(b), as amended, and Article XX of the Constitution of the State of Colorado. The District and these regulations are created only for the purpose of protecting the Town's waterworks and water supply, and not for the purpose of regulating land use activities, which activities shall continue to be regulated by Garfield County, the federal government, and any other authority with jurisdiction over land use activities within the District. The Town shall implement and enforce these regulations for the purpose of reviewing and permitting any activity within the District which creates a foreseeable risk of injury to the Town's waterworks or pollution of the Town's water supply. The Town's review authority within the District shall be exercised concurrently with the authority of Garfield County or any other government entity to review and/or permit the same activity as the Town may regulate; provided however, in the event no review, approval or permit requirement exists, the Town's review authority shall occur prior to the commencement of any activity covered by this Chapter 9.

(Ord. 492, 2004)

9.15.020 Jurisdiction and Map. The jurisdiction of the District shall extend over the territory occupied by the Town waterworks, including its raw water irrigation system, and all reservoirs, streams, trenches, pipes and drains used in and necessary for the construction, maintenance and operation of the same, and over the existing Revelle Springs, Parachute Creek, the Colorado River, and all water sources and drainage areas tributary thereto for five (5) miles above the points from which water is diverted for use by the Town. The District Map, with all notations, references and other information shown thereon, is incorporated herein as part of this Chapter. The official District Map is located and can be reviewed in the office of the Town Clerk, and copies thereof are available on request at a reasonable cost.

(Ord. 492, 2004)

9.15.030 Definitions. Whenever the following words or phrases are used in this Chapter 9.15, they shall have the following meaning:

A. “Best management practices” (BMPs) means schedule(s) of activities, prohibitions of practices, maintenance procedures, management procedures, and other management and activity practices to prevent or reduce potential or actual injury to the Town of Parachute waterworks or pollution of the Town of Parachute water supply. BMPs also include treatment requirements, operating procedures and other practices to control runoff, erosion, drainage, sediment accumulation and similar events.

B. “Excavate or Excavating” means the artificial movement of earth leaving any cut bank over three (3) feet in vertical height or a movement of material in excess of two hundred fifty (250) cubic yards.

C. “Fill” or “Filling” means the artificial movement of earth leaving a fill earth bank over two (2) feet in vertical height or filled earth over two (2) feet deep, or artificial addition of earth above a line sloping up at a grade of one (1) vertical to two (2) horizontal from the ground.

D. “Risk” means the reasonable anticipation that harm or injury may result from acts or omissions.

E. “Grade” or “Grading” means the artificial movement of over two hundred fifty (250) cubic yards of material; or movement of any earth or material affecting or creating a drainage channel; or pioneering of roads by the artificial movement of soils, trees or shrubbery creating a roadway or driveway in excess of two hundred fifty (250) feet in length; or the use of vehicles or keeping of any animals upon any land that would lead to a movement of one hundred (100) cubic yards of material within one (1) year of the commencement of such use or which use, if continued, would result in the movement of any earth or material affecting or creating a drainage channel.

F. “Person” means any individual, corporation, governmental or governmental subdivision or agency, limited liability company, business trust, estate, trust, partnership, association or any other legal entity.

G. “Pollution” means man-made, man-induced, or artificial alteration of the physical, chemical, biological and radiological integrity of water.

H. “Remove Vegetation” means to artificially cut, chemically kill or in any other manner remove any tree greater than fifteen (15) feet in height, any shrubs or trees covering an area of more than one hundred (100) square feet, or any grasses covering an area of more than one thousand (1,000) square feet.

I. “Sewage Disposal System” means an “individual sewage disposal system” as defined in C.R.S. §25-10-103(8).

J. “Surface” or “Surfacing” means any action resulting in the hardening or covering of the pre-existing ground in an area greater than one hundred (100) square feet such that rain or other water striking the area will accumulate or run off the surface to a greater extent than prior to the hardening or covering of the pre-existing ground. Surfacing includes, but is not limited to, such things as compacting the surface of the earth, placing gravel, concrete or like substances on the surface of the earth, or placing of structures upon the ground.

K. “Tributary” means any watercourse, stream, creek, spring or drainage area which provides a source of supply to the Town’s potable water diversion points on ** and the Colorado River.

L. “Waterworks” means any and all man-made or designed components of the Town’s water system including, but not limited to, all transmission, storage, treatment and filtration facilities; and all reservoirs, streams, ditches, pipes, drains, and diversion structures used in and necessary for the construction, maintenance, operation, and repair of the Town’s water system. The term specifically includes not only the treated water system, but the raw water irrigation system.

(Ord. 492, 2004)

9.15.040 Prohibited Activities and Permitted Activities Requiring Notice.

A. It is unlawful for any person to cast, place, dump or deposit in any part of the Town waterworks any substance or material which may injure or obstruct the same or tend to contaminate or pollute the water or obstruct the flow of water through the Town’s water facilities. For a distance of five (5) miles upstream from the points where the water supply is diverted, no person shall: (a) throw, cast, put or deposit any pollutant or contaminant into or in close proximity to the Revelle Springs, Parachute Creek, the Colorado River, or any of their tributaries or drainage areas; (h) store or retain any offensive or unwholesome substance on any premises in such position that the substance or drainage therefrom may be carried by natural causes into Revelle Springs, Parachute Creek, the Colorado River, or any of their tributaries or drainage areas, or (c) permit to flow into Revelle Springs, Parachute Creek, the Colorado River, or any of their tributaries or drainage areas from any place or premises, any foul or contaminating fluid.

B. It shall be unlawful for any person to cause injury or damage to the Town waterworks.

C. In addition to the general prohibitions of Parachute Municipal Code and other ordinances dealing with water usage and pollution, and subsections (A) and (B) of this Section, it shall be unlawful for any person to engage in any of the following activities within the Town's Watershed District, which activities the Town Board finds pose a potential or threat of injury to the Town's waterworks or pollution to the Town's water supply, unless such person shall, prior to commencement of such activity, receive a permit for such activity under the provisions of this Chapter:

1. Construction or installation of a sewage disposal system.
2. Excavation, grading, filling or surfacing.
3. Removal of vegetation.
4. Timber harvesting.
5. Drilling operations.
6. Alteration of water drainage courses.
7. Surface and subsurface mining operations.
8. Spraying or using herbicides.
9. Using, handling, storing or transmitting toxic or hazardous substances, including, but not limited to, radioactive materials.
10. Using, handling, storing, or transmitting flammable or explosive materials, except for domestic purposes or within vehicular fuel storage tanks.

D. The following activities are permitted within the District provided written notification of such activity is provided to the Town ten (10) days prior to commencement of such activity:

1. Stock grazing.
2. Road maintenance and improvement by governmental entities.

The written notice required under this subsection (D) shall include the name and address of the person undertaking the activity, a legal and common description of the location of the proposed activity, a description of the proposed activity, a discussion of the potential impacts upon the Town's waterworks or water supply, and such other information as the Town may require. The purpose of this notice requirement is to allow the Town an opportunity to protect the waters of the District by suggesting a best management practice for such activity prior to its commencement.

E. In the event that any activity not listed in subsection 9.15.040(C), above, is being conducted in such a manner that the Town Board finds that there exists a foreseeable risk of injury

to the Town's waterworks or pollution to the Town's water supply, the person responsible for such activity shall be notified by the Town of such finding and the Town may require that the activity cease and desist until a permit is obtained for the activity under the provisions of this Charter.

(Ord. 492, 2004)

9.15.050 Permit and Hearing Procedure.

A. Application and Fees. An applicant for a District permit shall submit the following to the Town Clerk no later than ninety (90) days prior to commencement of a proposed activity:

1. A completed application form as prescribed by the Town. The application shall be completed by the owner of the property on which the proposed activity will occur, or its authorized representative, the latter of whom shall provide evidence satisfactory to the Town of his or her authority to act with respect to the property and who shall also provide a statement setting forth his or her interest in the proposed activity.

2. A full and complete description of the proposed activity for which a permit is sought, including, if applicable, a discussion of any future activity anticipated by the applicant with respect to the subject property.

3. Two sets of plans and specifications which shall contain the following information:

a. A vicinity sketch map or other data indicating the site location and legal description of the subject property;

b. Boundary lines of the property for which the permit is sought, if applicable;

c. Location of any buildings or structures within fifty (50) feet of the proposed activity;

d. Accurate contours establishing the topography of the existing ground at a minimum of five (5) feet contour intervals for areas with a grade of less than ten percent (10%), and at a minimum of twenty (20) feet contour intervals for areas with a grade greater than ten percent (10%);

e. Elevations, dimensions, location, extent and the slopes of all proposed excavating, grading, filling or surfacing shown by contours and/or other means;

f. Details of all drainage devices in connection with the proposed activity;

g. A statement of the amount and location of any matter proposed to be deposited in areas other than that shown on the plans;

h. Nature and location of existing vegetation and a statement as to the effect of the proposed activity on such vegetation;

i. A vicinity map, as a scale of not less than 1' = 2,000' depicting the location of streets, highways, watercourses, and natural drainage courses of streams within one-half (½) mile of the proposed activity site; and

j. The location of the one hundred year flood plain of any drainage on or adjacent to the site of the proposed activity.

4. A document identifying any activity that may present or create a foreseeable risk of injury to the Town's waterworks or pollution to the Town's water supply, along with a specific description of the measures, including best management practices, that will be employed by applicant to obviate such risks.

5. Any and all additional information that may be specifically requested by the Town, including, but not limited to, the following:

a. A map showing the drainage pattern and estimated runoff of the area of the proposed activity;

b. Revegetation and reclamation plans and specifications;

c. A soils analysis, including the nature, distribution and strength of existing soils, and recommendations for earth moving procedures and other design criteria;

d. A geologic analysis of the site and adjacent areas;

e. An operational and maintenance analysis of the proposed activity; and

f. Water use analysis for the proposed activity, including source, quality, amount of consumptive use, impact on groundwater and discharge characteristics.

6. An application will not be deemed to be complete until all information required by the Town has been submitted. The Town Administrator or his/her designee shall have the authority to waive one or more submittal requirements if compliance with the requirement(s) waived is not necessary for proper evaluation of a permit application.

7. The applicant shall submit to the Town a District permit application fee of \$250.00 at the time of filing an application. The fee set forth in this subsection shall be considered a minimum for each application. To the extent any application results in the Town paying for outside professional services, including but not limited to engineering, legal, consulting, publication and copying fees associated with the review of the application, the applicant shall pay all such expenses incurred by the Town. All fees and costs shall be due and payable at the time a statement is presented to the applicant by the Town of

Parachute. No watershed district permit shall be issued until all fees have been paid.

B. Review, Analysis and Classification.

1. Within sixty (60) days following receipt of a completed application and site inspection, if necessary as determined by the Town, the Town Administrator or his/her designee shall review the application and prepare an analysis of the proposed activity, including a discussion of any factor that may present or create a foreseeable risk of injury to the Town's waterworks or pollution to the Town's water supply, and including a discussion of the measures, including best management practices, if any, that are proposed by the applicant to obviate such risks.

2. In undertaking the analysis of any proposed activity, the Town Administrator or his/her designee shall consider the following factors, and any others that may be relevant:

- a. Nature and extent of the proposed activity;
- b. Proximity of the activity to existing water courses, Town water supplies and Town waterworks;
- c. Drainage patterns and control measures;
- d. Soil criteria and erosion potential;
- e. Slope steepness and stability;
- f. Effects of denudation;
- g. Geologic hazards, including, but not limited to, avalanche paths, flood plains, high water tables, fault zones and similar factors;
- h. Ambient and non-point source discharges into water; and
- i. Fire hazard.

3. The Town Administrator or his/her designee may classify in writing an application as 'Minor Impact' if the Town Administrator or his/her designee finds, based upon the Town Administrator or his/her designee's analysis, that the proposed activity does not present or create a clear or foreseeable risk of significant injury to the Town's waterworks or pollution to the Town water supply. If the Town Administrator or his/her designee has designated an application as Minor Impact, the Town Administrator or his/her designee shall forward the application, analysis and No Impact finding to the Town Board, and the Town Board shall conduct the hearing required under subsection 9.15.050 (C), at a regularly scheduled meeting within thirty (30) days of the Town Administrator or his/her designee's determination. The Town Board shall render a decision regarding the issuance or denial of a District permit to such applicant within the time limits contained in subsection

9.15.050 (C). The failure of the Town Board to render such decision within the time limits herein set forth shall be deemed affirmative action on the issuance of the requested permit for any application classified as Minor Impact.

4. If upon receipt of an application and review thereof in accordance with the criteria set forth in subsection 9.15.050(B)(2), the Town Administrator or his/her designee determines that the proposed activity is of a type or location that will have no negative impact on the Town's waterworks or water supply, the Town Administrator or his/her designee may classify the application as "No Impact". If such a "No Impact" finding is made, the Town Administrator or his/her designee shall immediately issue a District permit for the proposed activity. After issuance of said permit, the Town Administrator or his/her designee shall report same to the Town Board at its next regular or special meeting, and shall also keep a record of such "No Impact" permits for the purpose of assessing the cumulative impact of "No Impact" activities. If the Town Administrator or his/her designee does not make a "No Impact" determination, that decision may be appealed to and considered by the Town Board at that meeting at which the application is otherwise reviewed. At said meeting the Board may, based upon the same standards as set forth above, grant a "No Impact" permit for the proposed activity.

5. If upon receipt of an application and review thereof in accordance with the criteria set forth in subsection 9.15.050 (B)(2) the Town Administrator or his/her designee finds that the proposed activity poses a foreseeable and significant risk of injury to the Town's waterworks or pollution of the Town's water supply, the Town Administrator or his/her designee shall forward the application, analysis, and finding to the Town Board, together with a recommendation that the Town Board deny the permit or issue the permit with conditions. The Town Board shall then review the application and recommendation as provided in subsection 9.15.050(C).

C. Hearing. Upon receipt of an application, analysis, and finding from the Town Administrator or his/her designee, the Town Board shall conduct a public hearing to review the application and shall render a decision regarding the issuance or denial of a District permit to such applicant within sixty (60) days of receipt of the Town Administrator or his/her designee's analysis. However, if the activity requires approval or a permit from any agency of the County, State or federal government, and the approval time lines for the County, State or federal action exceed that required in this Section, the Town shall have until thirty (30) days following the issuance of the County, State or federal permit or approval to render a decision regarding the issuance or denial of a District permit to such applicant. The Town Board may require additional information from any applicant, in which event the public hearing and decision may be delayed or continued until receipt of such additional information.

D. Standards for Issuance of Permit. A District permit shall be issued when the Town Board finds that the applicant has sustained the burden of proof that the proposed activity, including best management practices, if any, does not present or create a foreseeable risk of injury to the Town's waterworks or pollution to the Town's water supply, or injury or pollution or any water sources tributary thereto for five (5) miles above any point from which water is diverted for use by the Town. A District permit shall be denied when the Town Board finds that the applicant has not

sustained such burden of proof.

E. Permit Conditions. The Town Board in issuing any District permit may prescribe any conditions it may deem necessary to effect the intent of this Chapter. The Town Board may require any applicant to post a surety bond or cash in an amount sufficient to ensure compliance with the District permit, including, but not limited to, the cost of maintenance, operation, revegetation, reclamation, and other requirements intended to further the intent of this Chapter. The Town Board may release to the applicant portions of any such bond or cash from time to time when no longer necessary to ensure compliance with the District permit.

F. Duration of Permit. If any proposed activity for which a District permit is issued is not commenced within twelve (12) months from the date of issuance of such permit, the permit shall expire and become void.

G. Notice of Hearing. Notice of any public hearing required hereunder shall be given at least ten (10) days in advance of the public hearing by publication in the official newspaper of the Town of Parachute, and by notice to the applicant by registered mail.

H. Joint Review Processes. Any permit required hereunder can be reviewed and issued pursuant to a joint review process with any other government entity or agency charged with the review and approval of the same activity or activities.

(Ord. 492, 2004)

9.15.060 Enforcement.

A. Right of Entry. Whenever necessary to make an inspection to enforce a provision of this Chapter, an authorized representative of the Town may go upon any land at any reasonable time to inspect the same or to perform any duty imposed hereunder, provided that he identify himself and, if such land be unoccupied, that he shall make a reasonable effort to locate the applicant or other persons having control of such land to notify them of such entry.

B. Stop Work Order. Whenever any work or activity is being done contrary to the provisions of this Chapter, or in violation of the terms of any District permit issued hereunder, the Town or its authorized representatives may order the work stopped by notice in writing served on the applicant or any person engaged in or causing such activity to be done, any such person shall cease such activity until authorized by the Town to proceed. The Town shall reserve the right to revoke or suspend any permit issued hereunder if work is not done in accordance therewith.

(Ord. 492, 2004)

9.15.070 Other Remedies. In addition to any other remedies provided by this Chapter, the Parachute Municipal Code, State or federal law, the Town Attorney, on behalf of the Town, may commence an action in a court of competent jurisdiction for a temporary restraining or preliminary or permanent injunctive relief restraining and violation of this Chapter.

(Ord. 492, 2004)

9.15.080 Activity in Progress. The lawful continuance of any activity in progress at the time of the enactment of this Chapter may be continued even though it does not conform to the requirements of this Chapter. For purpose of this Section, an “activity in progress” is a building, construction, land use or other activity which has been finally permitted by all other governmental agencies having jurisdiction thereover, and which has been physically commenced. Ordinary repairs and maintenance of any existing building structure or land shall be allowed. Any change, expansion, alteration or enlargement of such existing lawful use shall be subject to all requirements of this Chapter.

(Ord. 492, 2004)

9.15.090 Violation and Penalty.

A. Offense. Any person who violates any of the provisions of this Chapter shall be guilty of a Class B municipal offense. Any person who willfully and wantonly violates any provisions of this Chapter shall be guilty of a Class A municipal offense. Each day a violation occurs shall be deemed a separate offense.

B. Remedies. The remedies herein provided shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. Nothing herein shall be construed a waiver of any civil remedies available to the Town.

(Ord. 492, 2004)

9.15.100 Appeal. Any person desiring to appeal any decision or determination by the Town Board hereunder must file such appeal within thirty (30) days following such decision or determination with the District Court of Garfield County.

(Ord. 492, 2004)

9.15.110 District Map. The District Map shall be amended in the event any change in the Town’s waterworks or diversion points for its water supply materially alter the geographical extent of the Town’s jurisdiction under this Ordinance.

(Ord. 492, 2004)

CHAPTER 9.20

Sewer Utility.

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9.20.010 Definitions.

A. "Act or Clean Water Act" shall mean the Clean Water Act of 1977 (Pub.L. 95-217), 33 U.S.C. §1251 *et seq.*, as the same is in effect on the date of the Ordinance codified in this Chapter or may hereafter be amended.

B. "Building drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (5') outside the inner face of the building wall.

C. "Building sewer" means the extension from the building drain to the public sewer or other place of disposal, also called house connection.

D. "Connection permit" means a permit to connect to the sewer system of the Town issued in accordance with Sections 9.20.040 and 9.20.050 of this Code.

E. "Discharge permit" means a permit to discharge industrial waste into the sewer system of the Town of Parachute, as authorized and permitted by Sections 9.20.090 through 9.20.110 of this Code.

F. "Industrial waste" means solid, liquid or gaseous waste resulting from any industrial manufacturing trade or business process, or from the development, recovery or processing of natural resources.

G. "Industrial discharger or discharger" means any nonresidential user who discharges an effluent into the Town waste water treatment facilities by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.

H. "Pollutant" means any substance discharge into the Town waste water treatment facilities or its collection system, which is listed in the National Pretreatment Standards, 40 C.F.R. part 4003, as the same is now in effect or may hereafter be amended.

I. "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in waste water prior to or in lieu of discharging or otherwise introducing such pollutants into the wastewater treatment system of the Town. This reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as otherwise prohibited. Appropriate pretreatment technology includes control equipment such as equalization tanks or facilities for the protection against surges or slug loadings that might interfere with or otherwise be incompatible with the wastewater treatment facilities of the Town.

J. "Public sewer" means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of groundwater, stormwater, and surface water that are not admitted intentionally.

K. "Runoff waters" means any water from storm or surface runoff, including by way of example but not by limitation, groundwaters, or storm and surface runoff from building foundations or roof drains, or any other collected or uncollected water from natural sources.

L. "Sanitary sewage or sewage" means the water-carried human waste or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground surface storm or other waters as may be present.

M. "Slug" means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows from

such user during normal operation and which adversely affect the Town's sewer system or performance of its wastewater works.

N. "Superintendent" means the official designated by the Town Administrator to be superintendent of wastewater facilities of the Town, or his authorized deputy, agent or representative.

O. "Wastewater" means industrial waste or sewage or any other waste, including that which may be combined with any groundwater, surface water, or storm water that may be discharged into the wastewater treatment facilities of the Town.

P. "Town", where the context so requires or permits, shall mean the Town of Parachute, Colorado, Sewer Enterprise, the sewer activity enterprise owned by the Town, which business is responsible for the operation and maintenance of the Town sewer system and which business receives under ten percent (10%) of its annual revenues in grants from all State and local governments combined and which is authorized to issue its own revenue bonds. The term "Town Board", where the context so requires or permits, shall mean the Board of Trustees of the Town of Parachute, Colorado, Sewer Enterprise.

(Ord. 500 §1, 2004)

9.20.020 Connection to Sewer Required.

A. The Town Board deems it necessary for the protection of the public health that the owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the Town, install at the owner's expense suitable toilet facilities therein, and connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance; if the public sewer runs within four hundred feet (400') of the boundary line of such property. Such connection with the public sewer system shall be made within thirty (30) days after the date of written notice given by certified or registered mail to such owners notifying them to connect their premises with the sewer.

B. Where a public sewer does not run within four hundred feet (400') of a property boundary line within the Town or in any area under the jurisdiction of the Town, the building sewer on such property shall be connected to a private sewage disposal system complying with the provisions and recommendations of the Colorado Department of Health.

C. At such time as a public sewer runs within four hundred feet (400') of the property line of any property served by a private sewage disposal system, a direct connection shall be made to the public sewer in accordance with the provisions of this Chapter, and any septic tank, cesspool or similar sewage disposal facilities shall be abandoned and filled with suitable material.

D. Except as otherwise expressly permitted above, no person shall maintain within the Town any privy, privy vault, septic tank, cesspool or other facility intended for use for the disposal of sewage.

(Ord. 500 §1, 2004)

9.20.030 Connection Permit - Required. It is unlawful for any person to open, uncover or in any manner make connection with any sewer main or line of the Town, or to lay drain or sewer pipes on any premises or in any street or alley in the Town without first obtaining a written connection permit from the Town.

(Ord. 500 §1, 2004)

9.20.040 Application for Connection Permit. The application for the connection permit shall be in writing on a form provided by the Town, which shall require at least the following information, together with any plans, specifications, or other information considered pertinent in the judgement of the superintendent:

- A. Name and address of applicant;
- B. Name and address of owner of the premises where the connection is to be made, or where the drain or line is to be laid;
- C. Location of the proposed connection, drain or sewer pipes;
- D. Statement as to the type, materials and method of connection and the type of materials to be discharged into the sewer.

(Ord. 500 §1, 2004)

9.20.050 Connection Permit - Information Required. The Town Administrator shall issue a permit for such connection if the application contains all the required information and the superintendent finds that the proposed connection complies with all of the provisions of the applicable ordinances of the Town and the sewer installation regulations of the Town. The connection permit shall specify the type and kind of connections and grease and sand traps proposed to be used, if any, together with the specifications of construction.

(Ord. 500 §1, 2004)

9.20.060 Connections to Sewer Mains. Any user of the sewer system, either inside or outside of the boundaries of the Town, must build his own sewer line if there is no line available for him to connect with. All connections to the Town's sewer system must be made subject to the supervision and inspection of the superintendent, and in compliance with the applicable ordinances and any sewer installation regulations and specifications of the Town.

- A. A separate and independent building sewer shall be provided for every building; except, where one building standards at the rear of another on an interior lot and a private sewer is available or can be constructed to the rear building through any adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

The Town does not and will not assume any obligation or responsibility for damage caused by, or resulting from, any such single connection. Each such application shall be reviewed and appropriate action taken on a case-by-case basis. No such connection shall be approved without written approval of, and an agreement to hold the Town harmless from any damage resulting from such connection from, the owners of both buildings.

B. Building sewers for existing buildings may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of the ordinances and any sewer installation regulations of the Town.

C. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, the means of lifting and discharging into the building sewer of the sanitary sewage carried by such building drain shall be approved by the superintendent.

D. No person shall make connection of roof downspouts, foundation or floor drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sewer.

E. All connections of the building sewer into the public sewer shall be made gas-tight and watertight and verified by proper testing. Any deviation from the procedures and materials prescribed in this Chapter and any sewer installation specifications of the Town must be approved by the superintendent before installation. The applicant for a building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of that official or his representative.

F. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored by the owner, at the owner's expense, in a manner satisfactory to the Town.

G. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner of the property on which it is installed. The owner prior to connection of the building sewer to the Town sewer system, shall agree in writing to indemnify the Town from any loss or damage that may be directly or indirectly occasioned by the installation of the building sewer.

H. Leaks or breaks or any service line shall be repaired by the property owner within seventy-two (72) hours of obtaining knowledge of a leak or from the time of notification of such condition by the Town. If satisfactory progress toward repairing the leak has not been completed within that time period, the superintendent may shut off service until the leak or break has been repaired. In addition, the Town shall have the right to effect the repair, and the responsibility of the cost for this repair shall be determined by the superintendent, and billed to the owner, as hereinafter provided.

(Ord. 500 §1, 2004)

9.20.070 Regulations and Standards. The size, slope, alignment, materials of construction of all public sewers including building sewers, the methods to be used in excavating, placing of the pipe, jointing, testing, backfilling the trench, and connection of the building sewer into the public sewer, shall all conform to the requirements of all applicable Town ordinances, regulations and specifications which may be adopted by the Town Administrator. Such regulations shall be presented to the Town Board and approved by resolution. When so approved, they shall have the same force and effect as any ordinance of the Town.

9.20.080 Discharge of Certain Materials Prohibited. In order to prevent the discharge into the sewer system of the Town, of any waters which may interfere with the operation of the waste water treatment facilities, or cause injury, damage or pollution:

A. No person shall discharge or cause to be discharged any of the following described water or wastes into the waste water treatment facilities of the Town:

1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;
2. Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant;
3. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the wastewater works;
4. Solid or viscous substances in quantities or of size capable of causing obstruction to the flow in the public sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, cattle manure, hair and fleshings, entrails or, either whole or ground by garbage grinders, paper dishes, cups or milk containers;
5. Any toxic substance, as the same is defined in the Rules and Regulations of the Environmental Protection Agency embodied in 40 CFR §403;
6. Any substance which would cause the sewer treatment plant of the Battlement Mesa Metropolitan District to violate any permit issued by the State of Colorado, the federal government, or any other applicable agency.
7. Any substance which violates any contract or agreement between the Town of Parachute and the Battlement Mesa Metropolitan District.

B. The following described substances, materials, waters or waste shall not be discharged into the Town sewer system in concentrations or quantities which will harm the sewers

or wastewater treatment facilities, process or equipment, or employees; have an adverse effect on the receiving stream; or otherwise endanger lives, limbs, public property, or constitute a nuisance:

1. Any wastewater having a temperature which will inhibit biological activity in the waste water treatment facilities plant resulting in interference; but in no case, waste water with a temperature at its introduction into the sewage system higher than one hundred fifty degrees Fahrenheit (sixty-five degrees Celsius);
2. Wastewater containing more than twenty-five milligrams per liter of petroleum, oil, nonbiodegradable cutting oils, or product of mineral oil origin;
3. Wastewater from industrial plants containing floatable oils, fat or grease;
4. Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers;
5. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the waste water treatment works exceeds the limits established for such materials by the appropriate official of the Town;
6. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Town;
7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Town in compliance with applicable state or federal regulations;
8. Quantities of flow, concentrations, or both which constitute a "slug" as defined in Section 9.20.010 of this Chapter;
9. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed by the Town, or amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge of the receiving waters from the Town's treatment facilities;
10. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create any condition deleterious to the structures or processes of the Town's treatment facilities, or would cause such facilities to violate the terms and conditions of any applicable permit;
11. Any pollutant, as defined in Section 9.20.010;

12. Any water or wastes which are defined in 40 CFR, §403, as requiring pretreatment, or as toxic.

C. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in subsections (A) and (B) of this Section, the superintendent shall have those remedies as are set forth in Section 9.20.140 of this Code.

D. In the case of an industrial or nonindustrial discharger, grease, oil, and sand interceptors shall be provided by the owner of the property at his expense when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in subsection (B)(3) of this Section, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent and shall be located as to be readily and easily accessible for cleaning and inspection. In maintaining these interceptors the owner shall be responsible for the proper removal and disposal by appropriate means of the captured materials, and shall maintain records of the dates and means of disposal, which records are subject to review by the superintendent. Any removal and hauling of the collected materials not performed by the owner must be performed by currently licensed waste disposal firms.

(Ord. 500 §1, 2004)

9.20.090 Industrial Dischargers - Permit Required.

A. All industrial dischargers who propose to connect to or to discharge sewage, industrial wastes and other wastes to the Town wastewater treatment facilities shall obtain a discharge permit. All existing industrial dischargers connected to or discharging to the wastewater treatment facilities of the Town shall obtain a discharge permit within sixty days after the effective date of the Ordinance codified in this Chapter.

B. A permit application shall be filed with the superintendent, in a form prescribed by him, which shall contain the following information:

1. The name, address and location of the discharger;
2. The standard industrial classification (S.I.C.) number of the business according to the standard industrial classification manual;
3. Disclosure of waste water constituents and characteristics, including, but not limited to, those mentioned in this Chapter, including the regulations of the United States Environmental Protection Agency as incorporated herein, as determined by appropriate chemical or biological analyses. Sampling and analysis shall be performed in accordance with the procedures established by the United States Environmental Protection Agency, and contained in 40 CFR, part 136, as amended;

4. Disclosure of the time and duration of discharge;
5. Disclosure of average daily and instantaneous peak wastewater flow rates, and gallons per day, including daily, monthly and seasonal variations, if any. All flows shall be measured, unless other verifiable techniques are approved by the superintendent due to cost or other reasons;
6. Disclosure of site plans, floor plans, mechanical and pumping plans, and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevations;
7. A description of activities, facilities and plant processes on premises, including all materials which are or may be discharged to the sewers or works of the Town; disclosure of the nature and concentration of any pollutants or materials prohibited by this Ordinance in the discharge, together with a statement regarding whether or not compliance is being achieved with this Ordinance on a consistent basis, and if not, whether additional operation and maintenance activities or additional pretreatment would be required in order for the discharger to comply with this Chapter;
8. Where additional pretreatment and/or operation or maintenance activities will be required to comply with this Chapter, the discharger shall provide a declaration of the shortest schedule by which it will provide such additional pretreatment and/or implementation of additional operation and maintenance activities;
9. Disclosure of each product produced by type, amount, process or processes and rate of production; disclosure of the type and amount of raw materials utilized (average in maximum per day);
10. All permit applications shall be signed by a principal executive officer of the discharger, under oath and subject to the penalties of perjury, and shall be approved by an engineer licensed to practice in the State of Colorado.

(Ord. 500 §1, 2004)

9.20.100 Discharge Permit - Structures Required. The owner of any property which requires a discharge permit shall install a suitable structure, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structures shall be constructed in accordance with plans approved by the superintendent. The structure shall be installed and maintained by the owner at his expense so as to be safe and accessible at all times.

(Ord. 500 §1, 2004)

9.20.110 Discharge Permit - Reports Required. On or before December 31, 2004, and then each June and December thereafter, all dischargers subject to this Chapter, shall file a written report with the superintendent. This report shall contain at least the following information:

- A. The nature and concentration of prohibited or regulated substances in the effluent;
- B. A record of all measured or estimated average and minimum daily flows during the reporting period;
- C. Whether or not the applicable pretreatment standards or requirements are being met on a consistent basis, and if not, what additional pretreatment may be necessary in order to bring the discharger into compliance with the applicable standards;
- D. The results of all sampling and analysis of the discharge, including the flow and nature of the concentration or production en masse where required by the superintendent. All analyses shall be performed in accordance with 40 CFR, part 136.

All such periodic reports shall be signed by a responsible official of the discharger, under oath, and subject to the penalties of perjury, and if required by the superintendent, shall be signed by an engineer licensed to practice in the state of Colorado.

(Ord. 500 §1, 2004)

9.20.120 Inspection and Sampling. The superintendent may inspect the monitoring facilities of any discharger to determine compliance with the requirements of this Chapter. The discharger shall allow the superintendent or his representative to enter upon the premises of the discharger at all hours, for the purpose of inspection, sampling or records examination. The superintendent shall have the right to set up on the discharger's property such devices as may be found necessary to conduct sampling, inspection, compliance monitoring or metering operations.

(Ord. 500 §1, 2004)

9.20.130 Information Confidential. Information and data furnished to the superintendent with respect to the nature and frequency of discharge shall be available to the public or other governmental agency without restriction, unless the discharger specifically requests and is able to demonstrate to the satisfaction of the superintendent that the release of this information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information.

When requested by a discharger furnishing a report, the portions of the report which may disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to the Battlement Mesa Metropolitan District and upon written request to governmental agencies for uses related to this Chapter, or the permits which the Town holds.

(Ord. 500 §1, 2004)

9.20.140 Enforcement, Penalties. In the event of the discharge of any waters or waste which are prohibited by this Chapter, the superintendent may:

A. Suspend the wastewater treatment service, and the discharge permit of either a discharger or a user when the actual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of persons, substantial danger to the environment, interference with the operation of the wastewater treatment facilities, violate any pretreatment limits imposed by this Chapter, or any discharge permit issued pursuant to this Chapter. Any discharger notified of the suspension of wastewater treatment service or the discharge permit shall, within a reasonable period of time as determined by the superintendent, cease all discharges. In the event of failure of the discharger to comply voluntarily with the suspension order within the specified time, the superintendent shall immediately commence judicial proceedings to compel compliance with such order;

B. The superintendent may further revoke the permit of any discharger who fails to:

1. Factually report the wastewater constituents and characteristics of its discharge,
2. Report significant changes in wastewater constituents and characteristics,
3. Refuses reasonable access to the discharger's premises by representatives of the authority for the purpose of inspection or monitoring, or
4. Violates the conditions of its permit, or this Chapter, or any final judicial order entered with respect thereto.

C. Following the entry of any order by the superintendent with respect to the conduct of any discharger contrary to the provisions of this Chapter, the Town Attorney may, following the authorization of such action by the Town Board, commence an action for appropriate legal and/or equitable relief in the District Court of the County.

D. Any person, firm or corporation who violates any of the provisions of this Chapter, rule and regulation adopted pursuant hereto, or term and condition of any permit issued pursuant to this Chapter, commits a Class A misdemeanor, punishable as defined in Section 11.01.030 of the Parachute Municipal Code. Each day during which such offense occurs shall be deemed a separate and distinct offense.

E. In the event that the superintendent determines that the discharge is an imminent threat to the health, safety and welfare of the Town, or the integrity of the Town's wastewater collection system, or the Battlement Mesa Metropolitan District facilities, the superintendent may, with the concurrence of the Mayor and the Town Administrator, turn off all domestic and irrigation water to the affected property. This disconnection shall last so long as the superintendent deems the hazard to continue.

(Ord. 500 §1, 2004)

9.20.150 List of Enforcement Actions. A list of all significant dischargers who were the subject of enforcement proceedings shall be kept for public inspection at Town Hall, and may

be publicized by the superintendent on the Town's web page. This list shall summarize the enforcement actions taken against the dischargers during the period.

(Ord. 500 §1, 2004)

9.20.160 Cost Recovery. Any person, firm or corporation violating any of the provisions of this Chapter, or who discharges or causes a discharge producing a deposit or obstruction, or causes damage to or impairs the Town's waste water disposal system shall be liable to the Town for any expense, loss or damage caused by such violation or discharge. The Town shall bill the discharger for the costs incurred by the Town in any cleaning or repair replacement work caused by the violation or discharge. Refusal to pay the assessed cost shall constitute a violation of this Chapter, enforceable as elsewhere provided in this Chapter.

(Ord. 500 §1, 2004)

9.20.170 Entry onto Private Property.

A. The superintendent and other duly authorized employees of the Town, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to sewage discharge to the Town's public sewer system in accordance with the provisions of this Chapter. While performing work pursuant to this Chapter, all employees of the Town shall observe all safety rules applicable to the premises established by the owner or contractor for its own employees.

B. The superintendent and other duly authorized employees of the Town, bearing proper credentials and identification, shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, maintenance, or replacement of any portion of the Town's sewer system lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the easement.

(Ord. 500 §1, 2004)

9.20.180 Interference Prohibited. No person shall in any way interfere with the employees of the Town in the discharge of their duties in the tapping of any sewer pipe, main, or lateral. No person shall dig up or cause to be dug up any street or alley in the sewer system of the Town, without first obtaining a permit to dig up any portion of any street or alley of the Town for the purpose of:

A. Connecting with the sewer system of the Town; or

B. Repairing, maintaining or replacing any lateral sewer line which shall fail or neglect to place the street or alley in its original condition.

(Ord. 500 §1, 2004)

9.20.190 Abandonment of Sewer Service Line. A previously used or purchased sewer tap or sewer service line serving a premises shall be deemed abandoned at such time as the water service line serving the premises is deemed abandoned. When a sewer service line is deemed abandoned, the Town may require that the owner of the premises at its expense effectively seal the connection, in a manner directed by the Town Administrator or his designee. When a sewer tap or sewer service line is deemed abandoned, the Town shall have no further obligation to provide sewer service to the premises, except upon re-application for a connection permit and payment of all applicable fees (including system improvement fees), installation costs, any accrued but unpaid minimum charges due pursuant to Section 9.20.240, and all other rates, charges, tolls, fees, and assessments due pursuant to this Title. In the event a customer has physically disconnected a water service line for a period of less than five (5) years--and therefore has not paid minimum water or sewer service charges for the period of disconnection--the cost of reconnection shall include minimum water and sewer service charges for each month the water line was disconnected.

(Ord. 500 §1, 2004)

9.20.200 Town Responsibility.

A. The Town shall be responsible only for the repair and maintenance of main trunk sewer lines. The responsibility for and the expense and cost of maintaining and repairing and replacing any lateral sewer line from the point where such lateral taps the main trunk line to the boundary of the user's property, and the sewer line within the user's property, shall be borne and paid for by the property owner served by any such lateral. Except as required by law, the Town shall not be responsible to any person, firm, or corporation for any damage caused by blockage of either a sewer main or sewer lateral. The fact that blockage has occurred shall not create any presumption of negligence on the part of the Town or Town employees.

B. Notwithstanding the foregoing, the Town Administrator may, without acknowledging responsibility or liability, and in cases where the cleanup is estimated to be less than two thousand dollars (\$2,000.00), authorize the cleanup of any sewage backup which, in his opinion, may have been caused by blockage of the sewer main. This provision is intended to alleviate the problems caused by sewage backup in cases where it is difficult to determine the responsibility therefor. In no case shall the agreement by the Town to provide this service constitute an admission of liability of any kind.

(Ord. 500 §1, 2004)

9.20.210 Damage to or Misuse of Sewer System. No person shall maliciously, wilfully or negligently break, damage or destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the Town's public sewer system. No person shall discharge any sanitary sewage, sewage, or wastewater, or water of any sort, directly into any manhole or otherwise directly into the Town's sewer system. Any person who does so shall be responsible for all costs incurred by the Town, and shall be punished as provided in Section 9.20.140.

(Ord. 500 §1, 2004)

9.20.220 Cost to Install Sewer. All costs and expenses incurred by the Town incidental to the installation and connection of a sewer service line to the public sewer system to the premises of a customer, shall be borne by the owner of the premises. Such costs and expenses shall include, by way of example and not limitation, costs for all labor and inspections by the Town, based upon hourly rates set by the Town Administrator or his designee; the cost of any materials required to be installed, and the costs of all services provided by the Town.

(Ord. 500 §1, 2004)

9.20.230 Sewer Tap Fees. The fee for connection to the Town's sewer system shall be determined by the Town Administrator based upon the following criteria:

A. All applications for sewer service must be pre-approved by the Battlement Mesa Metropolitan District.

B. The Town Administrator will calculate a tap fee based upon the definition of "EQR" (Equivalent Residential Unit) as determined by the Battlement Mesa Metropolitan District.

C. The tap fee for each EQR unit where both the sewer tap and all points of sewer use are located within the incorporated limits of the Town shall be three thousand two hundred fifty dollars (\$3,250.00).

D. Should the Board of Trustees approve an application for a sewer tap where either the tap or any point of the sewer use is located outside of the incorporated limits of the Town of Parachute, the fee shall be four thousand dollars (\$4,000.00) per EQR. All other requirements of this Ordinance shall apply, and the Board may require a pre-application agreement or pre-annexation agreement.

E. All sewer tap revenues shall be placed in a Capital Improvement Fund of the Sewer Enterprise Fund. All newly purchased sewer taps must be placed in service within thirty (30) days after payment is made.

(Ord. 500 §1, 2004)

9.20.240 Sewer Service Fees. The charges and bills for the sewer service shall be as follows:

Customers measured through meters and non-metered residential rates, shall be charged as follows:

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WATER USAGE	IN TOWN RATES	OUT OF TOWN RATES	REDUCED RATES
For a minimum of 10,000 gallons or residential non-metered	\$29.69	\$33.01	\$17.56
Next 3,000 gallons (Per 1,000 gallons)	\$2.56	\$2.69	
Above 13,000 gallons (Per 1,000 gallons)	\$2.76	\$2.87	

(Ord. 500 §1, 2004)

9.20.250 Reduced Rates. Reduced water and sewer rates will be charged to users either inside or outside the corporate limits meeting income guidelines as follows:

FAMILY SIZE	FAMILY INCOME NOT EXCEEDING
1 person	\$ 9,420.00
2 persons	\$12,636.00
3 persons	\$15,840.00
4 persons	\$19,056.00
5 persons	\$22,260.00
6 persons	\$25,476.00

For the purposes of determining qualification, “income” as used in this Section shall mean all family income, irrespective of its source or its classification as taxable or non-taxable income under the Internal Revenue Code, including specifically wages, interest, worker’s compensation, disability, pension or social security income. Persons requesting the low income reduced water and sewer rates shall complete a written application and statement in a form prepared by the Town Administrator. Persons whose income may fluctuate significantly from time to time, as determined by the Administrator from the application, shall quarterly renew and update their statement of qualifications on file with the Town. All applicants shall promptly notify the Town of any change in family income which would affect their entitlement to reduced water and sewer rates.

(Ord. 500 §1, 2004)

9.20.260 Service Charges. Statement for sewer service rates shall be provided to customers at intervals established by the Town Administrator and ratified by resolution of the Board of Trustees, but billing intervals shall not be more frequent than monthly nor less frequent than quarterly. If billing intervals are less frequent than monthly, the Town shall have the right to average monthly use for billing purposes, including the imposition of surcharges based upon

monthly use. Statements shall include any additional charges, tolls, fees, and assessments related to water or sewer utility service, such as late payment penalties, turn-on fees, duplicate bill fees, additional meter reading fees, meter testing fees, and other charges.

Whenever possible, statements for service charges will be directed to the owner of premises served rather than the occupant. When a customer receives service for a number of units through one meter, the Town shall send only one bill to the customer for the service measured by that meter. In no event shall the Town bill the owners of individual units within a multiple-unit building unless service to each unit is metered separately, unless such service has previously been established.

Statements shall be mailed before the specified billing period and shall be payable by the twenty-fifty (25th) of the month. Amounts outstanding after the twenty-sixty (26th) day of the month shall accrue interest at the rate of one and one-quarter percent (1 1/4%) per month.

(Ord. 500 §1, 2004)

9.20.270 Collection, Perpetual Lien. All rates, charges, tolls, fees, and assessments for Town sewer service shall be paid by the owner or owners of the premises served. The Town shall not be bound by any agreement between an owner and occupant concerning water or sewer service payments, irrespective of whether the Town has been notified of the agreement. Until paid, all sewer rates, charges, tolls, fees, and assessments shall become and remain a first and perpetual lien on or against the premises served. This lien on the premises may be foreclosed by an action at law or in equity in the name of the Town in any court having jurisdiction thereof. The Town shall have the right to collect from any customer delinquent on their account all legal, court, and other costs necessary or incidental to collection of any delinquent amount, including reasonable attorney's fees, filing fees, and recording costs.

In the event any rates, charges, tolls, fees, and assessments are not paid when due, the Town Treasurer may certify the amount to the County Treasurer to be placed on the tax list for the current year and to be collected in the same manner as other taxes are collected, with ten percent (10%) added to defray the costs of collection. All laws of this State for the assessment and collection of general taxes, including the laws for the sale of property for taxes and redemption of the same, shall apply.

(Ord. 500 §1, 2004)

9.20.280 Delinquency Notices and Charges, Revocation of Service. If any rates, charges, tolls, fee, or assessments for Town sewer service remain unpaid for forty-five (45) days, the Town may at any time thereafter give written notice of such delinquency to the owner of the premises served. The Town may assess an additional charge for processing and preparation of any delinquency notice. Provided, however, that the Town shall not deliver to an owner more than one delinquency notice per month. If any amount is delinquent more than seventy-five (75) days, the Town at any time thereafter may give written notice to the owner that water or sewer service, or both, shall be shut off if the delinquent amounts are not paid in full within ten (10) days of the

postmark on the notice. If an owner does not pay all delinquent charges within the ten (10) day period provided in a shut-off notice, the Town may terminate the water or sewer service, or both, to the premises served, as provided in Section 9.20.280.

(Ord. 500 §1, 2004)

9.20.290 Termination. In addition to having a first and perpetual lien on the premises served for unpaid water and sewer rates, charges, fees, tolls and assessments, the Town shall have the right to terminate water or sewer service, or both, to the premises served for nonpayment or for failure to comply with any ordinances or rules and regulations of the Town concerning water or sewer service. In the event of such nonpayment or noncompliance with the Town's ordinances, rules, or regulations, if no emergency exists as set out in Section 9.20.140(E), the owner shall be given written notice of a hearing to terminate service. The Town may combine the seventy-five (75) day delinquency notice permitted under Section 9.20.270 and the hearing notice required under this Section. The hearing notice shall specify the date, time, and place of the hearing, as well as the reason or reasons for proposed termination of water or sewer service, and shall be sent by certified mail, return receipt requested. If the owner cannot be located for personal service, it shall be lawful to post the notice on the front door of any building upon the premises served. The Town may terminate service to the property by turning off, disconnecting, or blocking the water and/or sewer lines serving the premises.

(Ord. 500 §1, 2004)

CHAPTER 9.30

Water Rights Dedication or Transfer.

Sections:

9.30.010	Title
9.30.020	Intent and Purpose.
9.30.030	Definitions.
9.30.040	Water Rights Dedication Requirement.
9.30.050	Water and Sewer Demand Analysis.
9.30.060	Dedication of Water Rights for Park, Open Space or Recreation Uses.
9.30.070	Exceptions.
9.30.080	Procedure.
9.30.090	Agricultural and Open Space Property.
9.30.100	Option or right of First Refusal to Purchase.
9.30.110	Return Flows and Augmentation, Exchange or Reuse Plans.
9.30.120	Regulations May Be Modified.

9.30.010 Title. The Ordinance codified in this Chapter shall be known and may be cited as the *Town of Parachute Water Rights Dedication Ordinance*.

(Ord. 561 §1, 2007)

9.30.020 Intent and Purpose. It is the intent and purpose of this Chapter to require the dedication of water rights to the Town sufficient to satisfy any new or additional demand for Town water service resulting from the extension of water service, annexation of land to the Town or any change in land use, within or outside the limits of the Town, which will require new or additional water supply from the Town, and thereby to assure an adequate and stable supply of water to all Town water users, to ensure the financial stability of the Town water utility and to promote the general welfare of the public. Compliance with this Chapter shall be in addition to any other requirements for annexation required by the laws of the State of Colorado and in addition to any other requirements for subdivision required by the laws of the State of Colorado or ordinances of the Town.

(Ord. 561 §1, 2007)

9.30.030 Definitions. As used in this Chapter, unless the context otherwise requires.

A. “Annexation” means the act of attaching, adding, joining or uniting a parcel of land to the legal entity known as the Town of Parachute.

B. “Appurtenant” means belonging to, accessory or incident to, adjunct, appended, annexed to or used in conjunction with.

C. “Board of Trustees” means the Board of Trustees of the Town.

- D. “Change in land use” shall include expansion of an existing use.
- E. “Consumptive use” means the amount of water consumed and which does not return to the stream system after use.
- F. “Conveyance of water rights” means the process by which legal title to water rights is transferred by appropriate deed, stock assignment, allotment contract or other record transfer.
- G. “Dedicate” or “Dedication” means to appropriate an interest in land or water rights to some public use, made by the owner, and accepted for such use by or on behalf of the public.
- H. “Dwelling unit” means any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by the Uniform Building Code.
- I. “Extension of water service” means any extension of the Town water service for which a tapping charge is assessed or any increase in Town water service resulting from a change in use of property, an increased use of property or an increase in irrigated area.
- J. “Historical Use Affidavit” means a notarized written statement which sets forth the following information concerning each water right proposed for dedication to the Town:
1. The name(s) and address(es) of the owner(s);
 2. The amount of each water right or the number of shares of stock;
 3. If the water right is used for irrigation, the number of acres presently being irrigated and a legal description and/or map of the acreage irrigated;
 4. A copy of the stock certificate in any ditch or reservoir company which furnishes water and (unless this requirement is waived by the Town) all decrees or judgments determining or adjudicating each water right proposed for dedication to the Town and any other water rights appurtenant to the property;
 5. A copy of the document(s) by which the present owner(s) of each water right received title to the water right proposed for dedication to the Town and any other water rights appurtenant to the property;
 6. A copy of all diversion records for each water right proposed for dedication or transfer to the Town (unless this requirement is waived by the Town); and
 7. A description of the historical use of the water right, including the amount and time of diversions and, if the use was irrigation, the type of irrigation, the number of acres irrigated, the crops grown and a description of any other water rights used on the land irrigated.

K. “Lease” means any grant for permissive use which results in the creation of a landlord-tenant relationship.

L. “Person” means an individual, a partnership, a corporation, a municipality or any other legal entity, public or private.

M. “Raw water credit” means the number of EQR’s for which dedication credit is provided by the Town for the dedication of a particular acceptable water right to the Town.

N. “Equivalent Residential Unit (EQR)” means a number related to the volume of water necessary to meet the demand and consumptive use requirements of an average dwelling unit housing not more than three and one-half (3.5) persons and having not more than two thousand five hundred (2,500) square feet of irrigated area. The EQR unit value assigned to such average dwelling unit is one (1.0). The EQR unit value assigned to any particular dwelling unit may be greater than, equal to or less than one (1.0). The EQR unit value assigned to other uses shall be based on the Town's estimated volume of water demanded and consumed by such uses as compared to the volume of water demanded and consumed by such average dwelling unit. The EQR unit value assigned to such uses is set forth in a table of EQR units in the Town of Parachute Water and Sewer Tap Ordinance of 1984, Ordinance No. 229, as such Table may be amended.

O. “Sufficient priority” means that a water right has a date as of which it is entitled to use water in relation to other water rights deriving their supply from the same source which is sufficiently senior that it may reasonably be expected to provide a dependable water supply for the requirements of this Chapter. Factors to be considered in making this determination shall include, but not by way of limitation, the appropriation date and adjudication date of the water right, the decreed use(s), the historical use of the water right, the physical flow available and the administrative practices of the office of the State Engineer.

P. “Town” means the Town of Parachute.

Q. “Town Administrator” means the Town Administrator of the Town of Parachute, Colorado.

R. “Town water service” means treated water service or raw water service furnished by the Town.

S. “Transfer water rights” means the conveyance of legal title to water rights to the Town.

T. “Water court transfer fee” means the estimated cost per EQR of court filing fees, publication fees, professional fees and other reasonable and customary costs associated with required proceedings in the Water Court for the Town to make full and lawful use of water rights dedicated to or acquired by the Town for use in its municipal water system.

U. “Water right” means a decreed right to use in accordance with its priority a certain portion of the waters of the State by reason of the appropriation of the same. It shall include both

direct-flow and storage rights.

(Ord. 561 §1, 2007)

9.30.040 Water Rights Dedication Requirement.

A. From and after the effective date of the initial Ordinance codified herein, any person who seeks approval of any of the following:

1. An extension of water service;
2. Annexation of land to the Town;
3. Any change in land use, within or outside the limits of the Town, if such change in land use will increase the demand for Town water service;

shall dedicate water rights to the Town of sufficient priority to produce, after dedication of such water rights to the Town and completion of any necessary water court transfer proceedings, at least one-half (0.5) acre-foot of deliverable supply per year, of which at least two-tenths (0.2) of an acre-foot per year must be fully consumable, for each EQR unit, determined in accordance with this Section and Section 9.30.080 (D), and which will be available for diversion at such point or points of diversion as the Town may designate for use and consumption by the Town for municipal purposes; provided that wastewater from in-house or in-building uses will either be treated by the Town's municipal wastewater treatment facilities or other wastewater treatment facilities of equal efficiency and which provide similar return flow patterns. If wastewater from in-house or in-building uses will not be treated by the Town's municipal wastewater treatment facilities or other wastewater treatment facilities of equal efficiency and which provide similar return flow patterns, the Town shall increase the dedication requirement so that, after dedication of such water rights to the Town, the water rights to be dedicated will produce an amount of deliverable and fully consumable water per year for each EQR which is sufficient to ensure an adequate supply of water to satisfy the proposed use or uses. In the case of a request for annexation of land to the Town, the person who seeks approval of the annexation shall comply with this Chapter.

B. Any person required to dedicate water rights to the Town by subsection (A) of this Section shall designate, on forms to be prescribed by the Town, all water rights proposed to be dedicated to the Town and shall provide a legal description of the land for which an extension of water service is requested or for which approval of annexation or a change in land use is sought; and, in addition, shall specify the proposed use or uses for which Town water service is requested and the number of EQR units required for such use or uses. The form shall be accompanied by an Historical Use Affidavit, except that the Town may, in its discretion, require in addition to the Historical Use Affidavit an engineering report prepared at said person's expense by an engineer experienced in water rights matters, which report is determined by the Town to sufficiently analyze the historical use of the water rights proposed for dedication to the Town.

C. Thereafter, the Town shall make a determination as to whether or not the water rights are sufficient to satisfy the requirements of subsection (A) of this Section. In making such

determination, the Town shall consult with persons knowledgeable in water rights matters.

D. The dedication requirement shall be satisfied by the person seeking approval of the extension of water service, annexation or a change in land use, whether or not that person will be the ultimate user of the Town water service.

E. All costs and expenses to dedicate water rights to the Town to satisfy the requirements of subsection (A) of this Section, or to dedicate water rights which the Town has otherwise accepted in accordance with Section 9.30.080 shall be paid by the person required to dedicate water rights to the Town pursuant to this Chapter. All costs and expenses necessary to change such water rights so they can be diverted and used by the Town for municipal use shall be paid by the person required to dedicate water rights to the Town pursuant to this Chapter, or his or her successor in interest, by payment of all required water court transfer fees.

(Ord. 561 §1, 2007)

9.30.050 Water and Sewer Demand Analysis.

A. The annexor, developer or owner, as the case may be, shall include with the annexation petition, or subdivision submittal if the property has already been annexed, or the request for extension of water service, a written analysis, prepared by a water resources engineer, sufficient to allow the Town to fully evaluate the probable water demand and consumption and the sewer service requirements for the property to be developed, based on the specific development plan proposed by such annexor, developer or owner. The analysis shall include the entire property and shall specify the use of all land in the property. Water demands and consumption shall be estimated separately for each use category (e.g. single-family residential, multifamily residential, commercial, office, industrial, parks or others), and irrigation demands and consumptive use shall be set forth separately for each use category which is applicable to the property. The analysis shall also include a description of the water rights that will be used to meet the water demand and consumption requirements of the project set forth in the development plan and demonstrate the adequacy of such water rights for that purpose.

B. The Town may elect to provide its own analysis if, in its judgment, the Town has sufficient information and experience with other similar developments to adequately evaluate the probable water demands and consumption and the sewer service requirements for the property. If the Town and the annexor, developer or owner agree on applicable criteria for the property, the Town may advise such person that he or she is not required to submit the written analysis provided for in subsection A of this Section.

C. The mutual rights and obligations of the Town and the developer or owner as the case may be, pertaining to water rights dedication and the provision of water and sewer service shall be memorialized in a water and sewer service agreement duly executed by the parties.

(Ord. 561 §1, 2007)

9.30.060 Dedication of Water Rights for Park, Open Space or Recreation Uses.

A. If the owner of any property to which the provisions of this Chapter is applicable dedicates land to the Town pursuant to this Code, such land to be used for park, open space or recreation uses, such owner shall also comply with the provisions of this Chapter, including the dedication of water rights sufficient to irrigate said land, as determined by the Board of Trustees.

B. Where the Board of Trustees enters into an agreement to accept cash-in-lieu of in-kind land dedication for parks, open space or recreation uses, and the Town is unable to specifically determine the irrigation demand for the public project for which the cash is contributed, from a specific Town construction plan, master plan or otherwise, the amount of water rights dedication, or cash-in-lieu of water rights dedication, at the Board of Trustee's discretion, which shall be required to meet the requirements of subsection (A) shall be equal to the amount required to irrigate eighty percent (80%) of the land area which otherwise would have been required for in-kind land dedication by this Code.

(Ord. 561 §1, 2007)

9.30.070 Exceptions.

A. The Board of Trustees may substitute or waive any conditions or requirements deemed necessary to meet the purposes of this Chapter.

B. This Chapter does not apply to an extension of water service for which the dedication requirements have been previously satisfied.

C. The Board of Trustees may from time-to-time determine that certain provisions of this Chapter, as amended, may be inapplicable to certain developments or portions of developments, or the application of said Chapter should be deferred in time or on certain conditions. Any such determinations shall be set out expressly in the annexation, development and other similar agreements relating to water service.

D. The Board of Trustees may make exceptions to the provisions of Section 9.30.080 in the event that all water rights appurtenant to the property being annexed cannot be dedicated upon annexation as a result of a mortgage or other encumbrance or a situation where the annexor or developer is not, at annexation, the owner of the water rights, if the Town determines that the owner or developer has made a good faith effort to secure the release of the mortgage or encumbrance, which effort has been unsuccessful, and the Town further determines that special circumstances exist which make granting an exception in the best interests of the Town.

(Ord. 561 §1, 2007)

9.30.080 Procedure.

A. The Town shall include in any annexation, subdivision, development or similar agreements, provisions addressing whether or not there is any commitment on behalf of the Town

to provide water or sewer service. Any provision affirmatively providing a commitment for water or sewer service shall limit the level of service to the amount of water dedicated by the developer and/or acquired by the Town for the developer's benefit with cash-in-lieu payments.

B. At the time of annexation, the annexor shall elect to do one (1) or more of the following:

C. Offer for dedication to the Town all water rights appurtenant to the property to be annexed; and/or

D. Offer for dedication to the Town water rights which are not appurtenant to the property to be annexed; or

E. Not to offer for dedication to the Town all water rights appurtenant to the property to be annexed.

The Town may, in its discretion, and using the criteria set forth in this Chapter, consider and accept for dedication water rights offered by the annexor which are not appurtenant to the property to be annexed. The Town shall determine whether any such water rights in subsections (1) and/or (2) above offered to the Town for dedication will be accepted, rejected or accepted in part by the Town for dedication.

F. In the event the annexor elects not to offer for dedication to the Town all water rights appurtenant to the property to be annexed, the Town shall provide in the annexation, subdivision, development and other similar agreements that:

G. There is no commitment by the Town at the time of approval of the annexation to provide water or sewer service to the property;

H. If the developer later elects to offer all such appurtenant water rights and the Town accepts them for dedication, the timing and extent of any commitment to serve water or sewer shall be limited by the completion of any necessary water court proceedings by the Town;

I. No platting of the property may occur until water right dedications have been completed for each plat;

J. No water rights will be accepted for dedication at the time of platting; and

K. The annexor, developer or owner shall not be entitled to provide cash-in-lieu payments to the Town until after such time as all appurtenant water rights have been offered to the Town for dedication.

L. The Town shall evaluate any water rights offered to the Town for dedication. The Town shall determine whether said water rights are to be accepted based upon the following criteria:

M. Priority date;

- N. Historical point of diversion;
- O. Location of historical use;
- P. Historical yield;
- Q. Historical consumptive use;
- R. The contribution to historical consumptive use of other water rights or sources of water supply;
- S. Future use of the land historically irrigated, including future irrigation, considerations with respect to title;
- T. Anticipated difficulties with transferring the water rights to appropriate points of diversion;
- U. Places of storage and municipal uses;
- V. The Town's contractual obligations and arrangements;
- W. Expected needs of the Town and of the Town's municipal water supply system;
- X. composition of the Town's water rights portfolio at the time of the proposed annexation; and
- Y. Any other appropriate factors.

For water rights acceptable to the Town for dedication, raw water credits shall be determined by the Town, which determination shall include use of the criteria set forth in Section 9.30.040 and this subsection (D).

Z. The Town reserves the right, in its sole discretion, to accept, reject or accept in part any water rights proposed for dedication to the Town. If the Town determines that the water rights proposed for dedication to the Town are unacceptable to the Town, or insufficient to comply with the dedication requirements, the Town may, in its sole discretion, determine whether the Town will accept cash-in-lieu of dedication to satisfy all or part of the dedication requirement. If the Town elects to accept cash-in-lieu of dedication, the amount of cash shall be equal to the current fair market value of water rights required to satisfy the dedication requirement, determined as of the date of actual payment by the annexor, developer or owner, which value shall include any transaction costs incurred or to be incurred by the Town in acquiring additional water rights for the Town's system. All determinations required by this Section shall be made by the Town in its sole judgment.

AA. No plat shall be approved by the Town unless sufficient water rights dedications and/or cash-in-lieu payments have been accepted by the Town to provide sufficient water supply for the demands projected for all proposed uses within the platted area.

BB. No extension of water service, including any new or additional water service, shall be furnished until there has been full compliance with the provisions of this Chapter, unless the Board of Trustees determines by resolution or written agreement that one (1) or more of the exceptions set forth in Section 9.30.070 apply.

CC. The Town reserves the right to review actual water usage within a project at a point in time after water usage has been established to confirm the adequacy of the water demand projections made by the annexor, developer or owner, and to require additional water rights dedication and/or cash-in-lieu payments based on actual water usage.

DD. All costs and expenses related to the dedication of water rights to the Town shall be borne by the person required to dedicate water rights to the Town pursuant to this Chapter.

EE. Any decision or recommendation made by the Town Administrator or other Town agent or designee under any delegation of authority or responsibility contained in this Chapter or otherwise relating to water rights dedication shall be submitted to the Board of Trustees for determination or ratification, as the case may be. No such decision or recommendation shall be of any force or effect until finally determined or ratified by the Board of Trustees by ordinance, resolution or approval of a written agreement.

FF. In the event the water rights offered to the Town for dedication provide raw water credits in excess of those required by this policy, the annexor, developer or owner shall offer any excess water rights for sale to the Town at current fair market value. The Town may enter into a written agreement to purchase all or part of any such excess water rights and, in the event the Town does not then purchase all of such excess water rights, the Town may require the annexor, developer or owner to grant to the Town a right of first refusal to purchase such excess water rights in the future, pursuant to the provisions of Section 9.30.100.

GG. The Town shall not require that groundwater wells or their appurtenant water rights be offered to the Town for dedication or purchase, nor shall the Town provide any raw water credits for such structures or water rights.

HH. All determinations provided for herein shall be made by the Town in the exercise of its reasonable judgment and shall be consistent with this Chapter.

II. All dedications of water rights to the Town hereunder shall be effected by delivering to the Town sufficient warranty deeds, or stock certificates with appropriate stock assignments as is appropriate to the particular transaction. All title documents shall be subject to approval by the Town's attorneys. No water rights dedication shall be considered completed until the Town has accepted sufficient documents transferring title to the Town.

(Ord. 561 §1, 2007)

9.30.090. Agricultural and Open Space Property. If the owner of the property proposed to be annexed, subdivided or on which the land use is proposed to be changed resulting in an increased demand for Town water service desires to retain the land, or any portion thereof, in

agricultural production or as open space prior to development, he or she may, pursuant to written agreement with the Town, be permitted to lease back, on an annual basis and for irrigation, aesthetic and recreational purposes only, all or part of the water rights dedicated to the Town pursuant to this Chapter. The terms of any such leases shall be at fair market value, as determined by the Town, and on such other terms and conditions as are determined by the Town. Said leases shall provide that in the event any portion of the land for which the water is leased is platted during the term of the lease, the Town may cancel the lease, in whole or in part, to the extent any portion of the leased water is determined by the Town to be necessary for water service to the property so platted.

(Ord. 561 §1, 2007)

9.30.100 Option or Right of First Refusal to Purchase.

A. Time. Prior to any extension of water service, any person required to comply with the provisions of this Chapter shall also grant to the Town the option for one (1) year to purchase any and all water rights which are appurtenant to the land to be annexed, or on which the land use is proposed to be changed, but which are in excess of the dedication requirements of this Chapter. The option may be exercised by the Town at any time for a period of one (1) year following the date of the grant to the Town with regard to any or all of the water rights subject to the grant.

B. Price.

1. The option price shall be that price agreed upon by the parties. If the parties cannot agree upon an option price within thirty (30) days after notice of the Town's intent to exercise its option is received by the owner, appraisal at the Town's expense will establish the price that reflects the fair market value of the water rights.

2. The appraisal shall be conducted by one (1) appraiser appointed by the Town, one (1) appraiser appointed by the owner of the water rights, and a third appraiser who shall be appointed by both parties. The average of the three (3) appraisals shall be the option price. All three (3) appraisers must have at least ten (10) years' experience in appraising water rights in Colorado.

3. Right of first refusal.

a. Grant of right. In addition to the grant to the Town of the option to purchase water rights as provided in subsection (A), any person required to comply with the dedication requirements shall also grant to the Town a right of first refusal regarding any water rights subject to said option to purchase. If the Town for any reason should choose not to exercise its option to purchase water rights as provided in subsection (A), the Town shall have the right of first refusal in the event the water rights are to be sold separately from the land, for a period of ten (10) years following the date of the grant to the Town.

b. Notice period. If the owner of the water rights subject to the right of first refusal wishes to sell the water rights to a third party, he or she shall give the

Town at least ninety (90) days' prior written notice of his or her intention to effect a sale of the water rights by delivering to the Town an acceptable bona fide written offer to purchase made by a third party.

c. Exercise of right. During the ninety-day notice period provided for in subsection (C)(2), the Town shall enjoy its right of first refusal entitling it to purchase the water rights offered for sale on the same terms and conditions as contained in the acceptable bona fide written offer. If within ninety (90) days following notice by the owner of his or her intention to sell his or her water rights, the Town chooses to exercise its right to purchase, then the Town shall so notify the owner in writing and shall proceed to closing on the terms and conditions contained in the acceptable bona fide written offer by the third party. In the event that the Town determines not to exercise its right to purchase the water rights offered for sale, the owner shall be free to sell the water rights to the third party; provided, however, that any such sale to the third party shall be for a price which is at least equal to that price which was tendered to and refused by the Town, and on terms and conditions which are no more favorable to the third party than those refused by the Town.

(Ord. 561 §1, 2007)

9.30.110 Return Flows and Augmentation, Exchange or Reuse Plans. The Town shall have dominion and control of all water supplied through its water system, subject to reasonable use thereof by its customers in compliance with applicable water service agreements, leases or licenses or the Town's ordinances. Such dominion and control shall continue without interruption as to all wastewater, return flows, runoff, sewage or tail water attributable to or originating in water supplied through Town-owned or controlled water rights or facilities. The Town shall have the exclusive right to recapture such return flows or claim credit therefrom for reuse, successive use, exchange, replacement, augmentation, substitute supply or any other lawful purposes, and the Town's dominion and control over water shall continue to attach to all such return flows, regardless of form, even after they return to the groundwater aquifers or the surface stream systems. All return flows from water supplied through Town-owned or controlled water rights or facilities remain the property of the Town.

(Ord. 561 §1, 2007)

9.30.120 Regulations May Be Modified. This Chapter may, in the future, be modified from time to time by ordinance to reflect changes in the Town's needs, current market conditions and other appropriate factors.

(Ord. 561 §1, 2007)